IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 370 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GANIBHAI GAFOORBHAI MANSURI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 370 of 2004

MR PR NANAVATI for Petitioner No. 1

MS NANDINI JOSHI AGP for Respondent No. 1-2

NOTICE SERVED for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 18/10/2004

ORAL JUDGEMENT

1. The petitioner herein has preferred this petition

in order to quash and set aside the order of the District Magistrate dated 04/07/2003, at Annexure-B to the petition, and also the order of the Appellate Authority dated 20/12/2003, at Annexure-C to the petition.

2. The petitioner was having an Arm's License issued by the District Magistrate, Sabarkantha, vide order dated 13/07/1990, at Annexure-A to the petition. The said license was renewed from time to time and it last expired on 31/12/2001. As the petitioner was involved in the duty of driving heavy vehicles and had to go frequently out of the State, he could not renew his license before the expiry date i.e. before 31/12/2001. The petitioner made an application in the month of December 2002 before the District Magistrate, Sabarkantha, for the renewal of his license. The respondent authority vide order dated 07/04/2003 rejected the application of the petitioner, at Annexure-B to the petition.

3. Feeling aggrieved by the order of the District Magistrate, the petitioner preferred an appeal before the Appellate Authority. The Appellate Authority vide order dated 20/12/2003, rejected the appeal of the petitioner on the ground of delay and confirmed the order passed by the District Magistrate, at Annexure-C to the petition. Hence, this petition.

4. Mr.P R Nanavati learned advocate for the petitioner has contended that respondent no.2 had rejected the request of the petitioner for renewing his license, without giving any cogent reasons and that the Appellate Authority had rejected the appeal of the petitioner on the ground of delay. He has contended that as there was communal tension throughout the State, the petitioner was not in a position to renew his license.

5. In the alternative, Ms.Nandini Joshi learned AGP has contended that the petitioner had not given any satisfactory reply for the delay caused in submitting the renewal application. She has submitted that the licensing authority, while considering the reply to the show cause notice issued to the petitioner, considered the fact that after the expiry of the license, the petitioner had never preferred a renewal application. Therefore, she has submitted that the petitioner had in fact never applied for the renewal of his license.

6. I have heard learned counsel for the parties. From the averments made in the petition, it is clear that the petitioner was involved in the duty of driving heavy vehicles and that he had to frequently go out of the

State of Gujarat. Now, considering the fact that the petitioner has to frequently go out of the State of Gujarat and that no misuse of the said weapon has been reported after its issuance, it would be appropriate to direct the authority to consider the case of the petitioner for grant of the license.

7. Therefore, without entering into the merits of the matter as to whether the petitioner had applied for the renewal of his license or not, the petitioner is directed to make an application before respondent no.2 for the said purpose, within a period of two weeks from the date of receipt of writ of this order. On receipt of such application from the petitioner, the respondent authority shall consider the same afresh, without being influenced by its earlier order or by the order passed by respondent State Government.

8. Accordingly, the petition is partly allowed. Rule is made absolute to the above extent with no order as to costs.

(K. S. Jhaveri, J.)

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